

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

DANIEL RAY GARCIA,
Institutional ID No. 2354476

Plaintiff,

v.

No. 5:21-CV-00087-H

SUSAN MURPHREE,

Defendant.

ORDER GRANTING PLAINTIFF'S MOTION TO DISMISS

Plaintiff Daniel Ray Garcia filed a motion to dismiss this civil-rights action without prejudice. (*See* Dkt. No. 18.) Plaintiff explains that he “only wishes to proceed” in another civil-rights action that is pending before the Court.¹ (*Id.*)

Federal Rule of Civil Procedure 41(a)(1)(A)(i) permits a plaintiff to dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. *See Welsh v. Correct Care, L.L.C.*, 915 F.3d 341, 344 (5th Cir. 2019).

After reviewing Plaintiff's motion and the procedural posture of this case, the Court concludes that Plaintiff's motion serves as a self-executing notice of voluntary dismissal under Rule 41(a). *See* Fed. R. Civ. P. 41(a)(1)(A)(i). However, the Court further concludes that, although Plaintiff no longer wishes to pursue this action, this dismissal does not release him or the institution where he is confined from continuing to pay the filing fee previously imposed by the Court. *See Williams v. Roberts*, 116 F.3d 1126, 1128 (5th Cir. 1997).

¹ *See Garcia v. Watson*, 5:21-CV-00112-BQ (N.D. Tex. May 13, 2021).

The Clerk is directed to close this case and terminate any pending motions.

So ordered.

Dated December 29, 2021.

A handwritten signature in black ink, appearing to read 'JWH', is written over a horizontal line.

JAMES WESLEY HENDRIX
United States District Judge